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this Memorandum Decision shall not be  
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court except for the purpose of  
establishing the defense of res judicata,  
collateral estoppel, or the law of the case.

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**IN THE  
COURT OF APPEALS OF INDIANA**

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S.G.,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A05-0608-JV-465
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Christopher Piazza, Magistrate  
Cause No. 49D09-0605-JD-1948

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**May 11, 2007**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**DARDEN, Judge**

## STATEMENT OF THE CASE

S.G. appeals the juvenile court's assessment of a public defender fee.

We reverse and remand with instructions.

## ISSUE

Whether the juvenile court abused its discretion assessing a public defender fee.

## FACTS

On May 16, 2006, the State filed a petition, alleging S.G. to be a delinquent child for committing acts that would constitute burglary, as a class B felony; theft, as a class D felony; and carrying a handgun without a license, as a class A misdemeanor, if committed by an adult. The juvenile court approved the filing of the petition. Subsequently, S.G. and the State entered into a plea agreement, whereby S.G. agreed to admit to the allegation of committing an act that would constitute burglary, as a class B felony, if committed by an adult, and the State agreed to dismiss the remaining charges.

The juvenile court held a disposition hearing on August 3, 2006. Following the disposition hearing, the juvenile court awarded wardship of S.G. to the Department of Correction but suspended the commitment to probation, placing S.B. at Kokomo Academy. The juvenile court further ordered S.G. "and/or parent . . . to pay Public Defender Fee in the amount of []\$200 . . . ." (App. 10).

## DECISION

S.G. asserts the juvenile court abused its discretion in assessing a public defender fee without first "hold[ing] a hearing or mak[ing] findings regarding the ability of S.G. or his parents to pay the fee." S.G.'s Br. 3. The State concedes this issue, and we agree that

reversal and remand is appropriate as the juvenile court neither conducted a hearing to determine whether S.G. or his parents were indigent prior to imposing costs;<sup>1</sup> made a finding of the ability to pay the costs of representation;<sup>2</sup> nor determined whether S.G. or his parents were indigent.<sup>3</sup> We therefore remand this case with instructions for the juvenile court to hold a hearing to address the ability of either S.G. or his parents to pay costs. *See A.E.B. v. State*, 756 N.E.2d 536, 544 (Ind. Ct. App. 2001) (finding that where a court has ordered payment of costs without an indigency hearing, the proper remedy is to remand with instructions to hold such a hearing).

Reversed and remanded with instructions.

BAKER, J., and ROBB, J., concur.

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<sup>1</sup> “When the court imposes costs, it shall conduct a hearing to determine whether the convicted person is indigent.” Ind. Code § 33-37-2-3(a).

<sup>2</sup> “If at any stage of a prosecution for a felony or a misdemeanor the court makes a finding of ability to pay the costs of representation . . . , the court shall require payment by the person or the person’s parent, if the person is a child alleged to be a delinquent child . . . .” I.C. § 33-40-3-6(a).

<sup>3</sup> “Prior to the completion of the initial hearing, the judicial officer shall determine whether a person who requests assigned counsel is indigent.” I.C. § 35-33-7-6(a).